

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

DOCKET NO. 04 11572 JLT

SUSAN COONEY,)
Plaintiff)

v.)

SAYBROOK GRADUATE SCHOOL AND)
RESEARCH CENTER,)
Defendant)

**AFFIDAVIT OF ATTORNEY PAUL W. MORENBERG IN SUPPORT OF
PLAINTIFF'S MOTION FOR ASSESSMENT OF COURT COSTS**

Plaintiff's counsel states the following under oath:

1. My name is Paul W. Morenberg, and I have personal knowledge of the facts recited herein.
2. I am an Of Counsel attorney at the law firm of Kerstein, Coren, Lichtenstein & Finkel, LLP ("Kerstein Coren"). Kerstein Coren has acted as counsel to the plaintiff Susan Cooney in this action.
3. I have caused the billing records of Kerstein Coren to be reviewed for the purpose of ascertaining the costs that have been incurred by the plaintiff.
4. The records of Kerstein Coren, kept in the usual course of the firm's affairs, reflect total taxable and recoverable costs of **\$12,451.87**. In calculating this figure, I have excluded numerous costs that were either discretionary or unrelated to proving plaintiff's contract claims or actual damages. For example, no request has been made for plaintiff's expert fees, as the jury did not accept the expert's analysis of damages.

5. I have summarized below those costs related to the prosecution of plaintiff's case and the proof of her contract claims and damages.

Wherever available, I have attached true and accurate copies of invoices, receipts, and/or checks.

<u>Description of Expense / Vendor</u>	<u>Date</u>	<u>Amount</u>
a. <u>Filing Fee – Middlesex Superior Court</u>	5/8/2004	\$275.00
(See Exhibit A for receipt.)		
b. <u>Service of Process and Witness Fees</u>		
1. Service of Complaint - Saybrook <i>Wheels of Justice, Inc.</i> (San Francisco)	6/25/2004	\$110.00
2. Service of Trial Subpoena - Saybrook: <i>Wheels of Justice, Inc.</i> (San Francisco)	1/10/2007	\$160.00
3. Witness Fee – John W. Reho	1/10/2007	\$129.00
4. Witness Fee – Dr. Karen Schwartz	1/18/2007	\$ 48.00
5. Service of Trial Subpoena – Dr. Taylor	1/23/2007	\$ 28.00
6. Witness Fee – Dr. Taylor	1/23/2007	\$ 46.00
7. Service of Subpoena - Sallie Mae: Constable Larry Karis	1/27/2007	\$ 50.00
8. Witness Fee – Sallie Mae	1/25/2007	\$ 40.00
9. Service of Subpoena – Citibank	1/26/2007	\$ 14.72
10. Witness Fee – Sallie Mae	1/25/2007	\$ 40.00
11. Witness Travel – Dr. Hammond	3/8/2007	\$470.10
12. Witness Lodging – Dr. Hammond	3/27/2007	\$704.78
Subtotal		\$1,840.60

(See Exhibit B for receipts.)

c. Deposition Transcripts and Tapes

1. Cooney – Day I. <i>Danilecki Reporters.</i>	1/26/2006	\$808.75
2. Cooney – Day II. <i>Danilecki.</i>	1/27/2006	\$951.25
3. Cooney – Video. <i>Lawyers' Video.</i>	2/8/2006	\$525.00
4. Dr. O'Hara – I. <i>Golden Gate Reporters</i>	3/13/2006	\$931.80
5. Dr. O'Hara – II <i>Golden Gate Reporters</i>	3/14/2006	\$1225.30
6. Drs. Richards / Bruff. <i>Golden Gate.</i>	3/15/2006	\$1027.50
7. Drs. Reho / Vaughan. <i>Golden Gate.</i>	3/16/2006	\$985.70
8. Mr. Cooper. <i>Golden Gate.</i>	3/17/2006	\$286.20
9. Dr. Eugene Taylor. <i>Wood Court Rptg.</i>	4/15/2006	\$298.05
10. Dr. Karen Schwartz. <i>Accurate Rptg.</i>	4/28/2006	\$488.60
11. Dr. Dennis Norman. <i>Accurate Rptg.</i>	5/2/2006	\$316.20
12. Dr. Arthur Bohart. <i>Golden Gate.</i>	6/30/2006	\$889.02
Subtotal		\$8,733.37

(See Exhibit C for receipts.)

d. Legal Research

1. Westlaw Research. <i>Thompson West.</i>	1/26/2006	\$166.59
2. Westlaw Research. <i>Thompson West.</i>	2/14/2006	\$500.39
3. Westlaw Research. <i>Thompson West.</i>	6/26/2006	\$219.67
Subtotal		\$886.65

(See Exhibit D for receipts.)

e. Photocopies and Trial Exhibits

1. Trial Exhibits and Trial Preparation Photocopies. Approx. 4,800 pages. KCLF Copying Charge - \$0.10 / page	03/2007	\$480.00
2. Trial Chalk – Timeline. <i>FedexKinko's</i>	3/28/2007	\$236.25
Subtotal		\$716.25

(See Exhibit E for receipt.)

6. The above-described deposition costs of \$8,733.37 (paragraph 5(c), *supra*) were reasonable and necessary, as required by M.R.C.P. 54(e). See Plaintiff's Memorandum of Law. Most deponents were called as trial witnesses by plaintiff or defendant. Drs. Alan Vaughan and Arthur Bohart were not called as trial witnesses because the court allowed a motion in limine by defense counsel. Nonetheless, the depositions of Drs. Vaughan and Bohart were reasonable and necessary to the investigation of plaintiff's contract claims.
7. All other proposed costs are recoverable under Massachusetts and Federal law. See Plaintiff's Memorandum of Law.

Signed under the pains and penalties of perjury this 31st day of July, 2007.

/s/ Paul W. Morenberg, BBO # 631101

Paul W. Morenberg
Kerstein, Coren, Lichtenstein & Finkel, LLP
60 Walnut Street
Wellesley, MA 02481
(781) 997-1600